

In the Matter of: )  
 )  
Application for Certification ) Docket No.  
AES Huntington Beach Generating ) 00-AFC-13  
Station Retool Project )  
 )

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

Garret Shean, Hearing Officer

STAFF PRESENT

Paul Kramer, Staff Counsel

Jack Caswell, Project Manager

Eileen Allen

Bob Haussler

Cheri Davis

Mark Hamblin

APPLICANT

Rick R. Rothman, Attorney  
McCutchen, Doyle, Brown & Enersen, LLP

Ed Blackford, President  
AES Huntington Beach, LLC

INTERVENORS

Mark Wolfe, Attorney  
Katherine Poole, Attorney  
Adams, Broadwell, Joseph & Cardozo  
California Unions for Reliable Energy

ALSO PRESENT

Moshen Nazemi  
South Coast Air Quality Management District

Malcolm Weiss, Attorney  
Alvin Pak, Attorney  
Jeffer, Mangels, Butler & Marmaro, LLP  
Counsel, City of Huntington Beach

ALSO PRESENT

Matt Lamb, Project Manager, Director of Real  
Estate

William P. Workman, Assistant City Administrator

Ross Cranmer, CBO

Connie Boardman, City Council

Ralph Bauer, City Council

City of Huntington Beach

Jim Buntin, Brown, Buntin Associates, Inc.

Energy Commission Consultant

Bob Hoffman

National Marine Fishery Service

Ed Kiernans

Huntington Beach Tomorrow

William C. Reid

Utility Workers of America

Gary Knapp

Joey Racano

Don McGee

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

## I N D E X

	Page
Proceedings	1
Opening Remarks	1
Introductions	3, 9
Overview	7
Information Session - Group Designations	7
Afternoon Session	16
Individual Group Reports	17
Group One	
General Orders and Conditions	17
Land Use	20
Comments/Discussion	20
Group Three	
Biology	22
Soil and Water Resources	25
Water Quality	28
Comments/Discussion	29
Group Five	
Socioeconomics	30
Group Six	33
Geology	33
Waste Management	33
Cultural Resources	33
Alternatives	33
Efficiency	33
Reliability	33
Transmission Safety and Nuisance	33
Compliance	33
Transmission System Engineering	33
Worker Safety	34
Traffic and transportation	34
Facility Design	34
Comments/Discussion	36
Facility Design	36
Geology	39

## I N D E X

	Page
Individual Group Reports - continued	
Group Four	
Visual resources	42
Noise	51
Group Two	
Air Quality	54
Public Health	59
Hazardous Materials	--
Comments/Discussion	57
Hearing Procedures Outline	60
Evening Session - Public Meeting	65
Recap - Group Discussions Progress	65
Schedule	72
Public Comment	74
Connie Boardman, City Council Member, City of Huntington Beach	74
Ralph Bauer, City Council Member City of Huntington Beach	77
Gary Knapp	78
Joey Racano	80
Don McGee	81
Closing Remarks	86
Adjournment	87
Reporter's Certificate	88

1 P R O C E E D I N G S

2 9:08 a.m.

3 HEARING OFFICER SHEAN: Good morning,  
4 ladies and gentlemen, I'm Garret Shean and I'm the  
5 Commission Hearing Officer on the Huntington Beach  
6 case. And we're all here because of a notice  
7 issued by the Committee for a workshop today,  
8 followed by evidentiary hearings tomorrow.

9 The purpose of today's meeting is to  
10 review the issues with regard to the potential  
11 impacts of the project and the adequacy of the  
12 mitigation that's been proposed in the staff  
13 assessment and, to some degree, we will be  
14 focusing on the conditions that were proposed in  
15 the staff assessment, simply because that's the  
16 first time that any party has put forth suggested  
17 conditions to mitigate potential impacts of the  
18 project.

19 Because of the press for time we're  
20 taking an extraordinary step of having concurrent  
21 workshops wherein we'll divide into working groups  
22 that will address certain subject matters.

23 I guess what we have found out since  
24 publishing the notice of this is that there's a  
25 significant interest on the part of some of being

1 in two places at the same time, particularly with  
2 regard to the air quality matter, as well as water  
3 and biology.

4 If there's any comments with regard to  
5 that we'll do that sort of as a housekeeping  
6 address as we get underway this morning.

7 The idea, however, is that given the  
8 limited amount of time that we have, but given a  
9 reasonably good amount of information that the  
10 staff has been able to develop, which has been  
11 added to by the City of Huntington Beach and data  
12 responses by the applicant I think we have enough  
13 at this point to begin to formulate what would be  
14 appropriate conditions of certification.

15 And the idea here is to have the  
16 applicant, Commission Staff, the City, parties  
17 who've already intervened, and interested members  
18 of the public and other agencies get together and  
19 see if we cannot hash out a consensus on what  
20 conditions in the various topic areas should look  
21 like.

22 Whether we'll be able to please  
23 everybody or not, we don't know. But the goal is  
24 to attempt to do that in an informal sort of  
25 alternative dispute resolution format rather than

1       evidentiary hearings which are like a trial-like  
2       setting, which take a lot of time, get very  
3       adversarial, and are basically the forum for the  
4       lawyers.

5               With that, what I'd like to do is have  
6       some introductions. And then any comments by the  
7       parties. And we'll start with the Commission  
8       Staff, and Mr. Jack Caswell.

9               MR. CASWELL: Yes, I'm Jack Caswell, the  
10      Project Manager for this Huntington Beach at the  
11      CEC. And if we could go around the room, on this  
12      side, just kind of identify certain staff over  
13      particular sections, it would be helpful so those  
14      people would be able to identify you.

15              HEARING OFFICER SHEAN: Well, Jack, why  
16      don't you have them stand up and you identify  
17      them.

18              MR. CASWELL: Yes.

19              HEARING OFFICER SHEAN: About a third of  
20      the room is Commission Staff.

21              MR. BUFORD: Tom Buford, land use.

22              MR. CASWELL: All right.

23              MR. KRAMER: I'm Paul Kramer; I'm staff  
24      counsel, so I advise all of the different  
25      participants.



1 MR. WALTERS: William Walters, air  
2 quality.

3 MR. GOLDEN: Keith Golden, CEC, air  
4 quality.

5 MR. RINGER: Mike Ringer, CEC, waste  
6 management.

7 MR. HAUSSLER: Bob Haussler, CEC,  
8 Manager, Environmental Protection Office.

9 MR. MURPHY: Tom Murphy, project  
10 description, alternatives.

11 MR. KANEMOTO: Bill Kanemoto, --

12 MR. ANDERSON: Bob Anderson, geology and  
13 facility design.

14 MS. ALLEN: Eileen Allen, Energy  
15 Commission, land use and --

16 MS. DAVIS: Cheri Davis, --

17 MR. CASWELL: Let's see where we're at  
18 if we come around the room.

19 MS. KOSLOWSKY: Shari Koslowsky, bio.

20 MR. YORK: Rick York, CEC, biology.

21 MR. SUNDAREWARAN: Rameash Sundarewaran.

22 MR. FOSTER: Mike Foster, biology.

23 MR. ANDERSON: Dick Anderson, water and  
24 soils.

25 MR. CASWELL: Let's go back around the

1 room here.

2 MS. DAVIS: Noel Davis, marine biology.

3 MS. TORRES: Dorothy Torres, cultural  
4 resources.

5 MR. MASON: Roger Mason, cultural  
6 resources.

7 MR. CASWELL: Jim.

8 MR. ADAMS: Jim Adams, socioeconomics.

9 MR. HAMBLIN: Mark Hamblin, traffic --

10 SPEAKER: -- transmission engineering.

11 MR. CASWELL: Anybody from the CEC or  
12 contractors for us want to identify themselves?  
13 And that's basically the CEC Staff that's here  
14 today.

15 HEARING OFFICER SHEAN: Well, we've  
16 emptied most of the building in Sacramento, as you  
17 see. So, how about from the applicant, please.

18 MR. ROTHMAN: Rick Rothman, --

19 HEARING OFFICER SHEAN: This is Mr.  
20 Rothman.

21 MR. ROTHMAN: Okay, Rick Rothman,  
22 counsel for AES Huntington Beach, LLC. We have a  
23 host of folks here. I'm not sure -- but we have  
24 consultants and members of AES Huntington Beach  
25 who are prepared to --

1                   HEARING OFFICER SHEAN: All right, thank  
2                   you. And the City of Huntington Beach, Mr. Pak.

3                   MR. PAK: Alvin Pak, Special Counsel to  
4                   the City of Huntington Beach. We have a number of  
5                   staff members --

6                   MR. CASWELL: Al, if you can come up  
7                   here because we've got to get this recorded. And  
8                   if someone speaks, if you could walk up here, pick  
9                   up this microphone and just -- it's mainly to make  
10                  the record. Thanks.

11                  MR. PAK: I'm Al Pak, I'm Special  
12                  Counsel for the City of Huntington Beach. We have  
13                  a number of members of the City Staff here who  
14                  will participate, as well as a couple of  
15                  additional attorneys.

16                  The Project Manager for the City of  
17                  Huntington Beach is Matt Lamb, who's Director of  
18                  Real Estate.

19                  HEARING OFFICER SHEAN: Okay. Are there  
20                  any other parties who are here who wish to  
21                  identify themselves, either from CURE or the  
22                  unions?

23                  MR. WOLFE: I'm Mark Wolfe; I'm here for  
24                  CURE. With me is Dr. Phyllis Fox, our consultant  
25                  on air quality. And Kate Poole, another lawyer

1 from our office.

2 HEARING OFFICER SHEAN: Okay, is Mr.  
3 Reed here? Or the unions, union representative?  
4 Okay. Let's just say the answer is yes.

5 Are there any questions or comments with  
6 regard to the format? The idea is, and unless  
7 there's a desire to change it, what we would  
8 propose to do is to break up into these working  
9 groups and move off.

10 The staff is here to attempt to  
11 facilitate the group and begin the discussion with  
12 respect to, you know, what are the facts, what do  
13 we know about impacts. What are the interests and  
14 concerns of the various parties and participants.  
15 Do the conditions that they have formulated begin  
16 to address those adequately. And if not, what  
17 needs to be added. And if too much, what needs to  
18 be taken out.

19 And I have basically instructed the  
20 staff at a meeting earlier in Sacramento that they  
21 should consider that their material is the  
22 starting point, not the ending point. Don't get  
23 too involved in pride of authorship. Our goal  
24 here is to try to find solutions that are mutually  
25 agreeable for the parties that are here.

1                   If that is not possible we will end up  
2                   adjudicating these tomorrow at some point during  
3                   the evidentiary hearings.

4                   I've been doing this for almost 25  
5                   years, and have served as a Judge in Sacramento  
6                   County in the municipal and superior courts on a  
7                   temporary basis for about 20 years. And I will  
8                   tell you that the best solution is the one that  
9                   the parties come up with. Literally, if you get  
10                  to us tomorrow and you have not been able to sort  
11                  something out, it's like putting your money in the  
12                  slot and pulling the handle, and leaving it up to  
13                  the Committee to decide winners and losers.

14                  While you're doing this in an  
15                  alternative dispute resolution forum, you have a  
16                  way to make this winners and winners.

17                  So that's what we would like to do  
18                  today. We'd like you to be imbued with that  
19                  spirit of trying to find the solution that is best  
20                  for everybody. And that's the purpose of today's  
21                  get-together.

22                  Do we have any comments?

23                  MR. NAZAMI: Yes, I just want to point  
24                  out the --

25                  HEARING OFFICER SHEAN: Could you

1 identify yourself, please?

2 MR. NAZAMI: Moshen Nazemi with South  
3 Coast Air Quality Management, and we have two  
4 other staff members here. And we are here to  
5 participate in the air quality discussions.

6 HEARING OFFICER SHEAN: Thank you.

7 SPEAKER: -- suggest maybe identifying  
8 any other agencies that might be present --

9 HEARING OFFICER SHEAN: All right, do we  
10 have anybody from the Water Board or other  
11 agencies?

12 MR. HOFFMAN: Bob Hoffman, National  
13 Marine Fishery Service.

14 HEARING OFFICER SHEAN: Okay. Coastal  
15 Commission, anybody here? All right.

16 SPEAKER: If you're interested in more  
17 than one of the topics in the work session, and  
18 it's divided up. How do you get that information  
19 from another area?

20 HEARING OFFICER SHEAN: You find a  
21 partner.

22 (Laughter.)

23 HEARING OFFICER SHEAN: Yes, sir, Mr.  
24 Pak?

25 MR. PAK: Your Honor, you indicated --

1 HEARING OFFICER SHEAN: Oh, don't Your  
2 Honor me.

3 (Laughter.)

4 HEARING OFFICER SHEAN: Not today.  
5 Maybe I should have worn something a little less  
6 formal, but --

7 MR. PAK: You indicated earlier that you  
8 might consider the request of combining a couple  
9 of the --

10 HEARING OFFICER SHEAN: Yes,  
11 particularly if people feel that the air and the  
12 water matters are ones that they are supremely  
13 interested in, we could consider combining those  
14 so that there is essentially a single forum.

15 My understanding is that probably the  
16 lesser discussion might be with regard, since  
17 there are some conditions that have already been  
18 laid out with respect to water and studies of the  
19 surf zone environment and things like that, I mean  
20 I think it's acknowledged that with regard to our  
21 water and biology issues, we know that we don't  
22 know.

23 So that we need to have studies that  
24 will occur, and both the protocols for the study  
25 need to be worked out. The studies need to be

1 appropriately funded. And then there basically  
2 needs to be the hook that once some information  
3 comes out of these studies, that mitigation  
4 measures would be undertaken.

5 And I think that's fairly well, if I  
6 understand, agreed to by most everyone who would  
7 be participating in the water section. There may  
8 be some details as to dollars and who holds them  
9 and things like that that need to be worked out,  
10 but fundamentally that may go more quickly than  
11 the air matter.

12 MR. WOLFE: We would second that, and  
13 would also support having socioeconomics and the  
14 general topics.

15 That would going to be my  
16 recommendation, as well. With the staff --  
17 socioeconomic conditions and the City, the second  
18 supplemental really having the only --  
19 socioeconomic conditions, in addition to CURE, it  
20 makes sense for us to combine those into the  
21 general.

22 HEARING OFFICER SHEAN: Into the general  
23 group? Okay. Well, why don't we do this.  
24 Because I think, if you can see this, of the six  
25 groups that we have, one was general orders and



1 conditions and land use; the second was air  
2 quality, public health and hazardous materials,  
3 really going to the urea and the transportation  
4 and storage and handling of the urea.

5 Third being water quality, water  
6 resources and biology. Fourth being visual and  
7 noise. Fifth being socio and the sixth being  
8 everything else, is for the morning combine group  
9 two and group three, which would be air and water.  
10 Have you work through those things.

11 Is there anybody who's here on other  
12 than -- whose interest is solely other than air  
13 and water? Yes, sir.

14 SPEAKER: I'm a member of the public.

15 HEARING OFFICER SHEAN: Okay.

16 SPEAKER: I don't know if you are  
17 counting me or not, but --

18 HEARING OFFICER SHEAN: Everybody counts  
19 today.

20 SPEAKER: -- in group six.

21 SPEAKER: Garret?

22 HEARING OFFICER SHEAN: Yes.

23 SPEAKER: I'm a little concerned about  
24 what is going to happen to biology.

25 HEARING OFFICER SHEAN: You're part of

1 water. Yeah.

2 All right, well, let's do this. We'll  
3 have group two and group three will join and we'll  
4 do that here. We will join -- group one and group  
5 five will join together so we get socio and the  
6 general conditions, group six and group four will  
7 stand alone.

8 Now, if you'd like we can run initially  
9 with the air and water matter, and then pick up  
10 the others in about an hour. I think that might  
11 be a good idea, that way at least get underway,  
12 we'll see what's going on. Is there any problem  
13 with that?

14 We haven't got the room designations  
15 yet. But unless there's an objection to that,  
16 what my thinking is is that the air and water  
17 group will stay here. We'll run it for basically  
18 an hour until about 10:30 or so, and then we'll  
19 resume the smaller groups in assigned rooms, and  
20 that way everyone's had a crack at the air and  
21 water issues.

22 SPEAKER: Then we split up air and water  
23 after an hour?

24 HEARING OFFICER SHEAN: No, I think  
25 they'll continue jointly. Unless it's an obvious

1           need that they be separated.

2                       So why don't we do that. We will --  
3           yes, sir?

4                       SPEAKER: My question seems like if  
5           everybody's interested in air and water we're  
6           going to end up with a situation that's  
7           unmanageable in terms of the --

8                       HEARING OFFICER SHEAN: Well, let's give  
9           it a shot. We're sort of flying by the seat of  
10          our pants here, as it is, anyway. And if we  
11          cannot manage the group, we'll break it up.

12                      All right, then what we'll do here in  
13          this room, start with air and water. People can  
14          sort of divide up or get more comfortable, as you  
15          wish. We'll have some staff people come up.

16                      I think the idea is to make an initial  
17          presentation of where we are with this. We do  
18          have copies of the staff's assessment. And we'll  
19          go from there.

20                      So, for the moment, we're all going to  
21          get informal and cooperative and we'll go from  
22          there.

23                      SPEAKER: Garret, and if we're not  
24          involved in either of those areas we can just go  
25          elsewhere for an hour and then return?

1                   HEARING OFFICER SHEAN: Yes, if you want  
2                   to get into a discussion with people who are in  
3                   your associated area, or something like that, that  
4                   would be fine.

5                   And I'll probably be talking with these  
6                   other groups just to begin to get things moving.  
7                   All right.

8                   SPEAKER: Can we request that the tables  
9                   to be reorganized a little bit so that groups can  
10                  sit together?

11                  HEARING OFFICER SHEAN: I'm sorry, you  
12                  want the physical format changed?

13                  SPEAKER: Yeah, like --

14                  HEARING OFFICER SHEAN: Sure. Right.  
15                  Yes. All right, with that, we'll conclude this  
16                  portion now.

17                  (Whereupon, at 9:25 a.m., the formal  
18                  workshop was adjourned to informal  
19                  workshops, to reconvene later this same  
20                  day.)

21   --oOo--

22

23

24

25

## 1 AFTERNOON SESSION

2 4:13 p.m.

3 HEARING OFFICER SHEAN: We'll come to  
4 order and get underway. The clock on the wall  
5 shows we're starting at Pacific Government Time,  
6 close to 4:00, as we indicated we would.

7 Now, the purpose of our meeting this  
8 afternoon is to go over and basically report how  
9 the working groups did, reporting topic by topic,  
10 focusing on what areas are uncontested and what  
11 areas are contested.

12 I want to just, for the people who are  
13 here in the room and who participated in these  
14 various groups, and I think for the most part they  
15 went high intensity, full bore, a lot of  
16 attention, a lot of dedication to the principle of  
17 trying to settle these things out, and I want to  
18 thank you from the Commissioners' point of view  
19 for the effort you put in, because it's going to  
20 ultimately make the proceeding work a little bit  
21 better.

22 And I hope that those of you who are  
23 from the local area participating as citizens also  
24 come away with a sense that we attempted to give  
25 you, and are continuing to attempt to give you, an

1 extremely meaningful opportunity to be heard and  
2 participate in this proceeding.

3 That notwithstanding the speed at which  
4 we're proceeding, we do want to hear what you have  
5 to say, and that what you have to say at least has  
6 the opportunity to affect the outcome of the  
7 proceeding.

8 So, I think what we should do, since  
9 we're going to let the air quality people keep  
10 going until about 4:30, is to begin to go through  
11 group one, and then we'll proceed to group three,  
12 four, five and six, and basically get a report of  
13 how things are going.

14 So, if you don't mind coming up and at  
15 least perhaps at this corner getting that mike and  
16 let us know how things went.

17 MS. ALLEN: I'm Eileen Allen of the  
18 Commission Staff. I facilitated group one  
19 discussion on the general orders and conditions  
20 and the land use technical area.

21 As far as the general orders and  
22 conditions, which begin in the staff assessment on  
23 page 339, the group reached agreement on a new  
24 condition proposed by the City of Huntington Beach  
25 that AES should submit a site master plan

1 outlining its long-range plans for the plant.

2 This plan should be submitted to the  
3 Energy Commission in 2004 or two years prior to  
4 the expiration of AES' contract with DWR for power  
5 generation, whichever date is sooner.

6 The text of this condition proposed by  
7 the City is in the City's March 14, '01 filing.  
8 CURE concurred with this condition. AES accepted  
9 the master plan concept. AES does reject a time  
10 limit on unit 3 and 4 operation.

11 Another part of the City's discussion in  
12 this area is that the City says that units 3 and 4  
13 should be shut down in 2006. AES accepted the  
14 master plan concept being filed with the  
15 Commission, but rejected the time limit.

16 Huntington Beach Tomorrow, represented  
17 by a citizen named John [Ed] Kiernens accepted the  
18 master plan submittal concept, but stated that the  
19 Commission needs to require a specific plant  
20 closure date as soon as possible, or at least by  
21 September 30, '06.

22 So Huntington Beach Tomorrow concurred  
23 with the City and looked for more affirmative  
24 action by the Commission.

25 The City also proposed a new condition

1       and we did not reach agreement on this. The  
2       City's concept was that given the 60-day emergency  
3       process, which has been instituted to help resolve  
4       California's energy emergency, the Commission  
5       should require AES to enter into a contract with  
6       DWR. This would keep the 450 megawatts from units  
7       3 and 4 in California.

8               The City notes that power from units 3  
9       and 4 should stay in California, whereas the power  
10      from AES Huntington Beach units 1 and 2, and AES'  
11      Redondo Beach and Alamitos plants could go  
12      elsewhere. AES did not accept the City's proposed  
13      condition. It is discussing a contract with DWR.

14             Units 1 and 2 and the Redondo and  
15      Alamitos plants, with the power from those plants,  
16      are covered in something called a tolling  
17      agreement, which I think is analogous to a  
18      contract with a power broker named Williams. That  
19      covers it for the City of Huntington Beach's  
20      condition regarding the agreement with DWR.

21             Moving on to a separate condition  
22      proposed by CURE. CURE proposed that the  
23      Commission continue the 12-month discovery and  
24      analysis process. There was no agreement on  
25      CURE's proposed condition that the Commission



1 continue its usual 12-month process.

2 The City raised a condition related to  
3 the proposed desalination project. The City's  
4 proposed condition was the City will review the  
5 cumulative impacts between the proposed  
6 desalination plant and the units 3 and 4 retooling  
7 project, and submit its conclusions on any linkage  
8 to the Energy Commission. AES strongly opposed  
9 this because it believes there is no linkage. The  
10 desalination project is not under the Commission's  
11 jurisdiction as far as AES is concerned.

12 That item is also in the City's March  
13 14th filing. I expect that the City will be  
14 pursuing these points in proceedings tonight and  
15 tomorrow.

16 In the land use area I'm happy to say  
17 that there were no disagreements. This is not a  
18 contested area. The text of the staff assessment  
19 was acceptable to all. The Commission Staff has  
20 no land use conditions.

21 That concludes group one.

22 HEARING OFFICER SHEAN: That's probably  
23 why. No conditions.

24 MS. POOLE: Kate Poole for CURE. Eileen  
25 described the City's proposal that the license be

1 contingent on a contract with DWR, and that the  
2 license basically be limited to the terms of that  
3 contract. And CURE also agrees with that  
4 proposal.

5 HEARING OFFICER SHEAN: Okay. The group  
6 three, which was combined water quality, water  
7 resources and biology. Is Bob -- is he back over  
8 there? Stand by here for a second.

9 Let me just indicate, and I'll repeat it  
10 later, but I think the expectation is for tomorrow  
11 that what we're going to go is to go through all  
12 the areas that I'm marking as uncontested. So,  
13 for example, land use was not contested with  
14 respect to the staff's analysis. And I would say  
15 this, if there had been conditions and they were  
16 uncontested, what we're really looking for is  
17 uncontested conditions.

18 At that point it would be sort of -- we  
19 would just sort of do, I hate to use the word on  
20 the record, a quick and dirty on that, and just  
21 move through these uncontested areas very quickly  
22 in the morning, so that we can get to the meatier  
23 stuff.

24 And with respect to the meatier stuff,  
25 since we have major parties here, the Commission

1       Staff, AES, the City of Huntington Beach, CURE and  
2       the unions, what we'd expect is that we'll build  
3       an overall limit for the day of 90 minutes per  
4       party, so that as we proceed through the  
5       presentations during the day, each party is going  
6       to have to apportion its time as it believes it  
7       would be best serving its cause.

8               Because if you add all that time up you  
9       will find out that we're going to be in the teeth  
10      of the commute.

11             SPEAKER:  So what you're saying is  
12      tomorrow at 10:00 the meeting will open, each  
13      party will have 90 minutes to -- evidentiary  
14      testimony?

15             HEARING OFFICER SHEAN:  The total  
16      throughout the day will be 90 minutes per party,  
17      throughout the day.  Ninety minutes, right.

18             Okay, ready on bio and water?

19             MR. HAUSSLER:  In the area of biological  
20      resources there were a number of areas that were  
21      addressed as concerns.  The conditions of  
22      certification, if I can get to them here -- BIO2  
23      will result in some revisions.  But there's  
24      tentative agreement on the part of the applicant,  
25      and agreed-to language on the part of the staff.

1           The applicant is requesting that they  
2       consult with their noise resource analyst and we  
3       will very likely have agreement on that tomorrow  
4       for BIO2. Assuming that the applicant can agree  
5       to the changes.

6           BIO5, --

7           HEARING OFFICER SHEAN: Why don't we  
8       indicate. This relates to noise, and basically  
9       the noise conditions capture most of the intent of  
10      the noise aspect of this -- or let me say the  
11      biological aspect of this noise condition.

12          MR. HAUSSLER: BIO5 relates to, it's a  
13      conditions of certification that relates to  
14      provision of funds to do impingement/entrainment  
15      sampling. The applicant has not agreed to  
16      provision of supplying funds up front for work to  
17      be done.

18          There was a number of changes in BIO5  
19      which staff can provide to the Committee tomorrow  
20      which, if included by the Committee, the applicant  
21      would agree to. They disagree with it in concept,  
22      but have provided comments in the condition,  
23      itself, that if it's imposed they can agree with.  
24      And that is consistent also with how we ended up  
25      with BIO6.

1                   One of the changes in BIO5 the applicant  
2                   requested was acknowledging that there would be a  
3                   return of funds, should they not all be used or  
4                   needed, to the applicant.

5                   BIO6 deals with the similar efforts to  
6                   provide for entrainment/impingement studies.  
7                   Basically the applicant feels that the information  
8                   available provides proof that there are no impacts  
9                   operating, or putting into re-operation units 4  
10                  and 5, based on historical studies that were done  
11                  on the units prior to when they were shut down.

12                  And staff's position is that we need  
13                  more recent data. The data we need would be  
14                  collected as a result of a marine review panel.  
15                  And the experts in this area would be included in  
16                  an effort to address what kinds of studies needed  
17                  to be done, and what kind of mitigation will be  
18                  necessary if impacts are identified in the study.

19                  The City of Huntington Beach provided  
20                  comments that they feel the NPDES permit, the  
21                  discharge permit by the Regional Board or the  
22                  Commission requirements for the change in  
23                  temperature of the discharge should be limited to  
24                  20 degrees, instead of the currently approved 30  
25                  degrees, to comply with the basin plan, ocean plan

1 requirements for a 20 degree delta T. This  
2 applies to new facilities. They have a variance  
3 based on it being an existing facility of 30  
4 degrees. There are other requirements which  
5 weren't contested.

6 Staff recommends limiting the facility  
7 as currently provided for in the NPDES permit.

8 There was some discussion concerning  
9 heat treatment which is provided for in staff's  
10 conditions of certification in BIO6. And there  
11 are some minor changes to BIO6 staff can provide  
12 tomorrow in response to the discussion we had this  
13 afternoon have included, but this does not  
14 eliminate the applicant's opposition to BIO5 and 6  
15 together.

16 SPEAKER: Four, 5 and 6.

17 MR. HAUSSLER: Correct, 4, 5 and 6.  
18 Water resources. The primary concerns discussed  
19 in soil and water resources included the  
20 requirements for the study of impacts of the  
21 project on beach closure issues related to  
22 potential for the project to have a role in that,  
23 in terms of bacterial closure issues.

24 And there's been some revised language  
25 provided for in Soil and Water 3, Soil and Water

1       4. It relates to the implementation of and  
2       responsibilities for the applicant to address  
3       issues as part of any contribution the plant may  
4       make to beach closure issues.

5               Those revisions in 3 and 4 will be  
6       submitted for the Committee in a timeframe by  
7       tomorrow.

8               HEARING OFFICER SHEAN: If those  
9       revisions are accepted, what's the effect of that?  
10      I mean --

11              MR. HAUSSLER: Staff hasn't  
12      significantly revised its recommendation, but  
13      there are changes in our recommendation that are  
14      more clear and what responsibilities the applicant  
15      would have related to studies combined with any  
16      ongoing broader study limiting the applicant to  
17      their responsibilities and share in both the  
18      studies and responsibility for the outcome.

19              HEARING OFFICER SHEAN: And what's the  
20      applicant's response to those revisions? I mean,  
21      if they were to occur.

22              MR. HAUSSLER: If the revisions occur  
23      the applicant's in agreement. However, they are  
24      in disagreement to upfront funding both in biology  
25      and soil and water. Right, we'll have that

1 available by prior to the hearing tomorrow.

2 HEARING OFFICER SHEAN: Okay.

3 MR. HAUSSLER: At least it's our intent  
4 to do that.

5 One of the concerns raised by CURE is  
6 that they be a member of either the stakeholders  
7 group or the marine review group, I believe  
8 primarily their concern would be part of the  
9 stakeholders group. And staff indicated that they  
10 can make their case to the Committee and that  
11 there would also be a selection revision for who  
12 should be a part of that stakeholder group. Our  
13 condition would remain the same as it current  
14 reads in terms of who that stakeholder group  
15 should be, but there's a provision for adding  
16 additional members should there be justification  
17 for that.

18 With respect to the beach closure issue,  
19 the City of Huntington Beach requested that the  
20 staff consider a recommendation that there be a  
21 \$14 million trust or mitigation fund put in place  
22 up front for mitigating any closure while this  
23 plant is in operation.

24 Staff is not recommending that occur.  
25 It seems to, in our opinion, go further than



1 reasonable, given the current knowledge of the  
2 cause being attributed to the project as it  
3 currently operates and as it would, based on what  
4 we know, would operate with unit 3 and 4.

5 There are some, I think, sort of cleanup  
6 additions to soil and water 4 that provide for  
7 more clarity in the \$1 million upfront funds for  
8 establishing a water quality trust account. That  
9 basically does not change that requirement.

10 HEARING OFFICER SHEAN: What's  
11 applicant's position on soil and water 4?

12 MR. HAUSSLER: Soil and water 4, I  
13 understand the applicant does not agree to this \$1  
14 million fund upfront. They believe they're worthy  
15 of trust for carrying out their obligation on this  
16 without contributions up front.

17 It's staff's position, and past  
18 practice, to provide for funds for study up front  
19 and in anticipation of whatever needs to be done.  
20 The applicant would like to be included as a  
21 participant in consultation concerning decisions  
22 on the study and how it will be carried out.

23 HEARING OFFICER SHEAN: Okay.

24 MR. HAUSSLER: There was a request by  
25 the public to make the studies available, the

1 results of any studies available to the public on  
2 the CEC website.

3 There was expressed support by National  
4 Marine Fishery Service of the basic approach taken  
5 by staff on soil and water, and in biological  
6 resources, to assess impacts of the project as it  
7 is proposed in staff's conditions.

8 I think that pretty much concludes.

9 HEARING OFFICER SHEAN: Okay. All  
10 right, why don't we do group four, which was  
11 visual -- yes?

12 MR. WOLFE: I'll be quick. Mark Wolfe  
13 for CURE. Just wanted to add that we are in  
14 concurrence with staff's proposed conditions 3, 4  
15 and 5, as we understand they will be rewritten and  
16 represented.

17 On condition 7, which has to do with a  
18 feasibility study to determine if there are  
19 alternative methods to reduce fish kills in the  
20 forebay, we questioned the current provision which  
21 requires the applicant to implement any such  
22 methodologies in five years. We thought that they  
23 should be required to implement them as soon as  
24 they are identified.

25 We also concur with the City's proposed

1 condition that the applicant remain subject to the  
2 delta T of 20 as provided in the thermal plan.

3 Thank you.

4 HEARING OFFICER SHEAN: Okay. Why don't  
5 we do visual and noise, then. Do we have our  
6 scribe? All right, if we don't, then let's move  
7 to socioeconomics. Do you have that, Eileen?

8 MS. ALLEN: Socioeconomics had a number  
9 of lively discussions. There was general  
10 agreement on CURE's proposed socio condition 1 and  
11 socio condition 2. Note that those are different  
12 from staff's socio condition 1 and staff's socio  
13 condition 2. These are new conditions proposed by  
14 CURE.

15 CURE's socio condition 1 is that not  
16 less than 35 percent of the construction labor  
17 force be drawn from Los Angeles and Orange  
18 Counties. There was general agreement from the  
19 participants, including AES, that this is  
20 acceptable.

21 CURE's socio condition 2 is that not  
22 less than 50 percent of the construction labor  
23 force be drawn from residents of California.  
24 There was general agreement, including from AES on  
25 this.

1           CURE also proposed socio condition 3 and  
2       we did not reach an agreement on this. Socio  
3       condition 3 was such that at least 50 percent of  
4       the construction workforce in positions subject to  
5       apprenticeship be graduates of an apprenticeship  
6       program approved by the California Apprenticeship  
7       Council.

8           We had a very lively discussion among  
9       union members and AES and its contractors. There  
10      were a number of points raised, and there was no  
11      disagreement, but it was an informative  
12      discussion.

13           AES did not accept this condition. They  
14      stated concern that it would slow down the  
15      schedule. CURE responded that it felt like this  
16      condition would permit the schedule being met in  
17      order to provide the energy in the summer.

18           CURE asked the Commission Staff about  
19      their position on this item. I stated that at  
20      this point we did not have a position. So that's  
21      the summation of the discussion on CURE's proposed  
22      conditions.

23           William C. Reid, representing the  
24      Utility Workers of America, stated that the staff  
25      assessment failed to address the current failing

1 hazardous structure of the Huntington Beach plant.  
2 This is how Mr. Reid characterize it.

3 Staff's position is that the project  
4 must conform with the Uniform Building Code  
5 requirements, as inspected by the Commission's  
6 designated chief building official. So that  
7 concludes the labor-related socioeconomic  
8 discussion, along with Mr. Reid's discussion which  
9 was related and somewhat related to structural  
10 integrity of the facility design.

11 Jim Adams of the Commission Staff  
12 discussed text additions to his socioeconomic  
13 analysis. These were handed out this morning.  
14 The language addresses environmental justice  
15 populations within the Huntington Beach general  
16 area, and the outlying areas surrounding  
17 Huntington Beach. The text additions were  
18 acceptable to all. These text additions involve  
19 no new conditions.

20 Mr. Pak, representing the City of  
21 Huntington Beach, discussed the City's interest in  
22 the community betterment package. We did not  
23 reach an agreement on this item. The City has  
24 proposed a condition that the Energy Commission  
25 require a community betterment contribution from

1 AES. The City notes that AES should be a good  
2 neighbor in the community, and the City has  
3 proposed AES contribute \$500,000 to the City's  
4 park and rec fund in order to help improve the  
5 quality of life in the City affected by the plant.

6 AES responded that it is working with  
7 the City on landscaping screening options for  
8 units 1 and 2. These measures are still under  
9 discussion, but they will likely be carried over  
10 to units 3 and 4. This item is also noted in the  
11 City's March 14th filing. I expect that they will  
12 discuss this in more detail.

13 Those are the major items for  
14 socioeconomic.

15 HEARING OFFICER SHEAN: Great, thank  
16 you. Group six covered a lot of topics.

17 MS. DAVIS: My name is Cheri Davis and  
18 I'm a Project Manager with the California Energy  
19 Commission. Yes, we covered many topics, and  
20 thankfully, most of them were uncontested.

21 The uncontested areas are geology, waste  
22 management, cultural resources, alternatives,  
23 efficiency, reliability, transmission line safety  
24 and nuisance and compliance.

25 For transmission system engineering that

1 section requires some updates which staff have  
2 proposed to reflect information provided by the  
3 applicant in some data responses.

4 The applicant's technical person was not  
5 available and so they believe they can reach  
6 agreement in the morning on those changes.

7 For worker safety we were not able to  
8 complete this area because we had no interested  
9 parties present, and our technical staff person  
10 was also unavailable.

11 In traffic and transportation, as well  
12 as facility design, there are some changes that  
13 we'll be making. I'd like to call upon staff to  
14 give a brief synopsis of those changes.

15 MR. HAMBLIN: Yes, I'm Mark Hamblin.  
16 I'm CEC Staff. I handle traffic and  
17 transportation.

18 What staff presented in their staff  
19 assessment were eight conditions as of this  
20 morning. There was discussion on various issues  
21 both by the City and by the applicant. There has  
22 been a revision to our TRANS number 6 that was  
23 presented by staff. There was some language that  
24 was incorporated that was agreed to by the  
25 applicant and prepared by the City. There was an

1 addition on it -- should I read it word-by-word?

2 HEARING OFFICER SHEAN: No. Just get it  
3 down --

4 MR. HAMBLIN: This was regarding an  
5 interim parking and building material storage plan  
6 area for parking of construction employees. This  
7 was agreed to by the applicant. There was also  
8 some added verbiage that was presented to that  
9 particular condition that was originally presented  
10 by the City with the statement that unless  
11 permitted by the State Department of Parks and  
12 Recreation through the Orange County District.

13 The reason this was added in this was  
14 recognition that it's a state park, state issued  
15 permits are involved there. The City was somewhat  
16 uncomfortable with that particular -- with the use  
17 of the beach parking area being used by workers  
18 for the facility. But there was a recognition  
19 that this is the state that has apparently already  
20 issued permits for this particular facility and  
21 this particular project. So, I do want to at  
22 least present that for the record.

23 There's an additional condition that's  
24 been added, so there's a TRANS9, and this is a  
25 directing or specifically directing that truck



1 traffic during the construction period and project  
2 operation for the facility to be limited to  
3 Newland Street between Pacific Coast Highway and  
4 the main gate.

5 MR. LAMB: Matt Lamb, City of Huntington  
6 Beach. With regards to the proposal -- the only  
7 amendments that the City has is with the  
8 amendment, the City objects to that on the grounds  
9 that it basically closes off beach resources.

10 Our recommended proposal would be that a  
11 parking plan that basically designates parking  
12 outside of the coastal area would be more  
13 acceptable to the City, i.e., at the intersection  
14 of Beach and Edinger at the mall, maybe entering  
15 an agreement with Esralow, and having some type  
16 that would be more appropriate than taking away  
17 resources from the surrounding minority groups.

18 MR. ANDERSON: I'm Bob Anderson from the  
19 CEC's engineering office. And we had a fairly  
20 fruitful discussion of facility design issues, and  
21 also not maybe contested, but interrelated geology  
22 issues.

23 I'd like to start with the seismic  
24 design issue first. What we were looking at is  
25 having the change to structure number 1, and

1        basically the change -- this is still, the  
2        verbiage is being tacked down still by the very  
3        capable Mr. Matt Lamb, okay, and other folks  
4        within group number six.

5                What we're looking at here is adding the  
6        protocol element to structure number 1. And  
7        essentially what that will do is have the owner,  
8        AES, submit to the CBO design analysis for not  
9        only the major components of the project in this  
10       case centered around units number 3 and 4, the  
11       actual structures upon which those major component  
12       elements will become a part of.

13               That's still final language to be  
14        crafted for consideration for tomorrow. And  
15        that's relative to the Uniform Building Code  
16        chapter 16 is where that's basically oriented  
17        from.

18               It's a clarification of a dynamic and  
19        the lateral force analysis methodologies that are  
20        already proposed in structure number 1. It's more  
21        of a clarification highlighting issue.

22               There was some issue with AES about  
23        this, the owner. And they're to resolve that with  
24        the City which also, by the way, we're looking at  
25        asking the chief building official for this

1 particular project, so they would be the ones, the  
2 City Staff would be the ones that would have a  
3 review and approval authority upon this particular  
4 issue in the end. So they have to be online with  
5 one another to understand what the left hand wants  
6 with the right.

7 Then also on structure number 1 there is  
8 a clarification which we caught, is that there was  
9 a portion that says that at least 90 days prior to  
10 construction, manufacturer, you do this, this and  
11 this. Well, we don't have 90 days.

12 Turns out that what we're looking at  
13 here -- appropriate language with the City, and  
14 with AES, that be more akin to something, and this  
15 is still wet paint, if you will, the idea of was  
16 it five days -- maybe 15 days prior to  
17 construction that the owner would submit their  
18 construction plans, et cetera, for the particular  
19 element of protocol number 3, which is different  
20 than the rest of the different protocols required  
21 under facility design. And we get that language  
22 cleared up.

23 What we're also doing is hunting if  
24 there are any more unusual dates that don't fit  
25 this current timeline now. So, maybe that might

1 be something to look through through the entire  
2 staff assessment one final time.

3 Then we also decided that we needed to  
4 add a condition, and we're calling it General  
5 number 1. And then we're going to bump down the  
6 other eight general conditions under facility  
7 design by one number. So number 1 now would be  
8 number 2 on down the line.

9 And essentially number 1 will be  
10 something like this: Upon approval of the  
11 Commission license the owner shall submit within  
12 five days all plans (compliance plans, shop  
13 drawings, calculations, specifications,  
14 manufacturer compliance certificates, et cetera)  
15 to be submitted to the CBO, chief building  
16 official.

17 And the idea here is, since we have such  
18 a very short timeline, the CBO needs those as fast  
19 as they can get them from AES to have a chance to  
20 having a quick turnaround and success for both AES  
21 and the CBO.

22 Those are the basic issues right there.  
23 We did have one that was more germane to geology  
24 and facility design that came in late. But was  
25 still very relevant. Had to do with flooding.

1           The Santa Ana River project is a U.S.  
2       Army Corps of Engineers project that's been going  
3       on for many many years in the entire Santa Ana  
4       River drainage. And right now the site area is  
5       designated A99, which means that there's an  
6       unclassified base elevation for flooding through  
7       the area, but there is a flood remediation project  
8       underway at this particular point.

9           And that there is a concern on the  
10      City's part about their FEMA, Federal Emergency  
11      Management Agency flood insurance rate that they  
12      get from FEMA about flood insurance for the City  
13      as a whole, the area as a whole, relative to a  
14      lack of a condition of certification that uniquely  
15      points out requirements for flood protection for  
16      the site.

17           And what we were looking at in  
18      particular, as a staff person with this, while,  
19      yes, we recognize this in area A99 on the current  
20      FEMA flood maps as of 1997, but this particular  
21      site, at the time, that FEMA assessment was done  
22      for flood insurance for this particular area was  
23      pretty much the way it is right now, as at least  
24      we understand it, asked that if the City wants to  
25      pursue this as a condition of certification that

1       they get ahold of AES, and if they want to work it  
2       out tonight, that's fine. But we agreed to  
3       disagree, to go along with actually formulating  
4       right now a condition of certification with this.

5               So we don't see that that may be a full  
6       scale impact onto the flood insurance rate  
7       potential for the City, but at the same time we're  
8       not just saying that we won't hear it. We're  
9       looking at for letting AES and the City work that  
10      out.

11             Getting back very briefly to the CBO  
12      issue. As of this time we don't have a memorandum  
13      of understanding with the City, which we were  
14      looking at as having be the CBO. I contacted my  
15      office this afternoon to get them working up a  
16      memorandum of understanding between the CEC, which  
17      in reality is the CBO, but we delegate the  
18      authority of the CBO to the City, to the County,  
19      whoever it happens to be, for a particular  
20      project.

21             In this case we have had the good  
22      fortune of meeting the CBO engineer, Ron [Ross]  
23      Cranmer met with us in our group this afternoon.  
24      And we hope they'll get things rolling between the  
25      City and AES and the CEC to get an MOU in place as

1       soon as possible.

2               What we're trying to do there, is  
3       because we have tight timelines, is to make sure  
4       that the timelines are workable for both AES and  
5       the CBO, the City of Huntington Beach, and with  
6       whatever resources that are available timewise  
7       that we have. That's it.

8               HEARING OFFICER SHEAN: Okay, thanks.  
9       Okay, we're going to do visual and noise and that  
10      would be Dale.

11              MR. EDWARDS: Hello, my name is Dale  
12      Edwards. I'm the Supervisor for a group of folks  
13      at the Energy Commission that, among other things,  
14      does visual resource analysis.

15              And for this particular project, the  
16      Huntington Beach project, we had a consultant  
17      working for Aspen. And the analysis has also been  
18      contributed to by people on staff at the Energy  
19      Commission.

20              I'll just give a real brief overview  
21      about some basic things regarding the project, as  
22      far as the visual analysis goes, that it was found  
23      to not have a significant environmental impact as  
24      far as the California Environmental Quality Act is  
25      concerned, because the actual retooling project

1 does not amount to a significant change to the  
2 existing structure that is there.

3 And most of our analysis and the  
4 discussions we've been having today has been on  
5 the order of the laws, ordinances, regulations and  
6 standards that are applied to such projects by the  
7 City of Huntington Beach in this case. And some  
8 other pertinent LORS, as we call them.

9 And what it comes down to, rather than  
10 me going into any detail which I don't even have  
11 in front of me or in my mind about what those  
12 specific requirements are, what I'm going to do is  
13 go through kind of a very brief description about  
14 where we stand now as far as the conditions of  
15 certification that we have been discussing for all  
16 this day. And unfortunately we'll have to  
17 continue to discuss for a little bit longer to  
18 reach some conclusion. And I'll explain that in a  
19 moment.

20 The conditions, there are six of them at  
21 this point in time, Visual 1 through 6. VIS1 is a  
22 requirement for the units 3 and 4 to be painted,  
23 and there was basically no agreement -- or rather,  
24 excuse me, there was agreement on that condition.  
25 No problem with that condition, and so as it's



1 written today, that remains the same.

2 Condition VIS2 is a requirement for  
3 landscaping to be implemented around the project  
4 site, basically at ground level. This involves  
5 the planting of trees and other assorted plants.  
6 And may also include some change to the fencing in  
7 certain locations.

8 And there has been -- I'm going to run  
9 through how these VIS1 through 6 now exist, and  
10 then discuss some possible changes to those.

11 VIS3 is a condition that requires -- put  
12 myself a little note here -- oh, this is the  
13 architectural screening.

14 And VIS4 is for currently discusses the  
15 requirement from the visual resources perspective  
16 that the project be dismantled at the end of its,  
17 or when it ceases operation basically. That  
18 condition has been reworded quite a bit.

19 Visual condition 5 has to do with the  
20 exhaust stack temperatures as it relates to visual  
21 plume production out of the generation units.

22 And visual 6, which has to do with the  
23 lighting plan for the proposed project that would  
24 be submitted to the Energy Commission for -- to  
25 the staff for review and approval.

1           As I said, VIS1 has been basically went  
2           through our review or discussion without any  
3           changes, as I recall.

4           And VIS2 and VIS3 there's been  
5           discussion about merging those two conditions so  
6           the landscaping and the visible or architectural  
7           screening, which is for the larger superstructure  
8           or the mass of the building, of the power plant,  
9           itself.

10           Apparently, as some of you may know,  
11           that the City has recently issued some  
12           requirements through the City Council, I believe,  
13           for a permit for the units 1 and 2 in which they  
14           require basically that as a first order of  
15           priority that landscaping be -- intensive  
16           landscaping be implemented for those projects, and  
17           in fact, for units 3 and 4, as well.

18           And they go on to say that if the  
19           landscaping is not -- I should read this actually  
20           a little more clearer here -- if landscaping alone  
21           fails to satisfy the City's desired screening  
22           results, then physical architectural improvements  
23           shall be explored to satisfy this requirement.

24           What staff and the applicant and others,  
25           the City of Huntington Beach representatives, have

1       been discussing is how best to accomplish this  
2       merging of the first the landscaping requirement,  
3       which is relatively -- or it's not a problem in  
4       anyone's perspective at this point in and of  
5       itself, but merging that with the screening  
6       requirements for the architectural -- attachment  
7       of architectural materials of some sort to the  
8       larger structure of the facility.

9               Some of the issues that resolve around  
10       that are the fact that as currently envisioned by  
11       some of the order I just read is that the first  
12       priority is to do landscaping so that if possible  
13       landscaping alone would satisfy the requirement to  
14       mitigate the visual or aesthetic impacts of the  
15       project as far as the ordinances of the City are  
16       concerned.

17              And there is, as I read to you, that  
18       there's a discussion about going on to  
19       architectural screening if that landscaping isn't  
20       sufficient.

21              And some of the discussion we've been  
22       having is how do we determine whether it is  
23       sufficient or not, or at what point in time does  
24       that happen. And we do need to continue that  
25       discussion, so we're not concluded on that.

1           There's also consideration that at least  
2           at some level of our discussion that at a minimum  
3           there be some landscaping, if not complete  
4           landscaping, and perhaps some screening.

5           And there's also been an indication, at  
6           least from one of the parties, that there's a need  
7           to include a dollar level that at least gives the  
8           applicant some sense of how much is the maximum  
9           that they would have to spend for landscaping and  
10          screening. And there's some difficulty with  
11          coming up with that number in this short timeframe  
12          because if we're talking about materials and other  
13          aspects of attaching the architectural screening  
14          in particular, such things as wind loading and  
15          what it may do in the engineering of that  
16          structure, itself, whether it's even engineering  
17          practical or not.

18          So those things have to be considered  
19          before we reach final conclusion, and we'll try to  
20          pull some of that information together before we  
21          conclude this evening.

22          On VIS4, I don't have the language right  
23          here in front of me, but we changed this quite a  
24          bit and it will be provided in a later -- possibly  
25          later this evening, or certainly by tomorrow in a

1 written form that everybody can see.

2 But the basic outcome of this particular  
3 condition is that if the project is proposed to  
4 cease operation about one year prior to the  
5 termination of this particular certificate, that  
6 is an AFC has not been filed to continue the  
7 operation of the project, that a facility closure  
8 plan would be submitted to the Energy Commission,  
9 as is normally done for facility closures, 12  
10 months prior to that end point of the certificate  
11 that we are now considering. So that's that one.

12 On Visual 5, regarding the exhaust stack  
13 temperatures, to insure that significant plumes  
14 are not generated by the project, right now we  
15 have a minimum temperature that's in that  
16 condition. And that temperature was based on  
17 information that was provided to date, and staff  
18 of AES are going to provide some information  
19 tomorrow about whether that particular temperature  
20 is overly restrictive in the sense that it cuts  
21 down the hours of operation to too great a level.  
22 That information will be provided on record  
23 tomorrow.

24 There's something else about that I may  
25 think of in a minute.

1                   But we also changed the timing of some  
2                   information that's supposed to be provided to us  
3                   during an operational phase of the project,  
4                   itself. It's staff's intent that with new  
5                   information that would be based on actual  
6                   operation of units 3 and 4, after they are  
7                   modified, that will provide better information for  
8                   the determination of this temperature limit.

9                   And that new temperature limit, if  
10                  necessary, would be applied by CEC Staff after  
11                  that review of the new information. And that the  
12                  CEC Staff would make this determination.

13                 That's a relatively new concept, or the  
14                 first that I'm aware of, at least, in my  
15                 experience with the Energy Commission as far as  
16                 putting such a condition into place. And I'm not  
17                 sure that from a legal context that that's going  
18                 to fly or not. We'll be talking about that in the  
19                 next few hours and see whether that can happen.

20                 What we're trying to do is avoid the  
21                 need, if there is a change in that temperature,  
22                 about having to go through a Commission amendment,  
23                 which is typical for what has to occur when  
24                 there's a change to some prescriptive element of a  
25                 condition of certification.

1                   And under Visual 6, as I mentioned  
2           before, under lighting, well, basically everything  
3           is fine with that condition except that we've got  
4           to make some fine tuning to some degree about  
5           adding some language about motion sensors to  
6           insure that lights that are not necessary and  
7           aren't safety related can be turned off when not  
8           needed.

9                   One other element that I have to mention  
10          which i neglected so far is that the City does  
11          have, as far as it came up under noise, and I'll  
12          leave that for someone else to talk about, but it  
13          comes up a little bit here under the lighting  
14          aspect, as well, that the hours of operation of  
15          the facility are normally restricted to the hours  
16          of 7:00 a.m. to 8:00 p.m.

17                  And the applicant has indicated that  
18          there's a need in order to meet the online date  
19          that is being shot at, as far as June of this  
20          year, that there is a need for the construction to  
21          occur for approximately 20 hours per day for the  
22          three-month period that it's scheduled to occur.

23                  And as far as the construction lighting  
24          goes, that there was a need to insure that under  
25          this visual condition 6 that it allows for that

1 kind of operation or construction to occur beyond  
2 the normal hours.

3 Staff discussed the possibility of  
4 receiving from the City of Huntington Beach as  
5 early as this evening, some information, hopefully  
6 in writing, that indicates that the City Council  
7 would be in favor, or to whatever degree they have  
8 considered the possibility of a variance for those  
9 hours of construction.

10 And I think that basically concludes my  
11 remarks unless somebody wants to remind me of  
12 something I've left out that's important.

13 MR. BUNTIN: My name is Jim Buntin. I'm  
14 a consultant to the Energy Commission. On the  
15 topic of noise there were four subject areas that  
16 were discussed, and they resulted in changes to  
17 two of the conditions. The two conditions of  
18 concern are Noise6 and Noise8.

19 Noise6 has to do with the compliance of  
20 the project with the City noise ordinance and the  
21 CEC standards.

22 And Noise8 has to do with construction  
23 noise conditions.

24 The points of discussion, let me cover  
25 those first, the first issue is to move one of the



1 proposed monitoring sites which we had added to  
2 the applicant's monitoring sites. We had it  
3 located at a particular intersection, we're going  
4 to move it south about halfway between Banning and  
5 Hamilton Avenues just to account for the fact that  
6 there's a large earth berm in the way if we have  
7 it at the intersection that we had proposed.

8 The second issue was the issue of  
9 mitigation measures. The City wanted more  
10 specificity in the noise mitigation measures. We  
11 discussed that that wasn't a feasible thing to do  
12 at this point because we don't know exactly what's  
13 going to be required, but we did add language to  
14 Noise6 that says that the first preference -- I  
15 should find the exact language.

16 It says: Onsite noise reduction will be  
17 the primary mitigation method. And then if  
18 offsite mitigation is additionally required, such  
19 as the proposed noise barrier or wall which was to  
20 be located at the RV park across the street from  
21 the entrance to the plant, implementation would be  
22 subject to the approval of the land owner.

23 So that was the idea, was to express a  
24 preference for onsite noise reduction rather than  
25 offsite, which in this case would be a barrier on

1 someone else's property.

2 The third issue had to do with audible  
3 announcements. The City Staff have related to us  
4 that citizens have complained about hearing  
5 announcements looking for staff out and about on  
6 the plant grounds. And the City would like to  
7 have a condition of approval that says the audible  
8 system would be replaced by some sort of an  
9 electronic paging system or something quieter,  
10 basically.

11 And the staff's position is basically  
12 that we're looking for compliance with the City  
13 noise ordinance, which would treat that particular  
14 issue. So that did not result in any changes to  
15 the noise conditions. At least at this point.

16 Under Noise8 there was a question about  
17 the construction schedule, and you just heard a  
18 discussion of that about regarding lighting. That  
19 same request to do conduct construction over 20  
20 hours of a day, every day of the workweek, puts  
21 them into conflict -- every day of the week,  
22 including Sunday -- puts them into conflict with  
23 the City noise ordinance, which allows  
24 construction from 7:00 a.m. to 8:00 p.m. on  
25 weekdays and Saturdays.

1                   So we proposed language that says for  
2           basically leaves Noise8 intact, but adds a  
3           paragraph that says for all other construction,  
4           this meaning construction other than that  
5           involving heavy equipment ad noisy construction  
6           work, would be limited to 20 hours of every 24  
7           hour day, except that that work that is to occur  
8           outside those hours of 7:00 a.m. to 8:00 p.m.,  
9           Monday through Saturday, shall be subject to the  
10          terms, conditions and requirements of the City  
11          noise variance board, which is part of the City  
12          municipal code.

13                   So those were the changes that we  
14          discussed. I think all the other sections, the  
15          other noise conditions were uncontested.

16                   HEARING OFFICER SHEAN: Thanks. Okay,  
17          we're going to do air next, so, Keith, are you all  
18          set?

19                   (Pause.)

20                   MR. GOLDEN: What we discussed the last  
21          few hours is primarily the conditions of  
22          certification under air quality. We made some  
23          modifications to some of those conditions based  
24          upon comments from parties.

25                   Generally all parties, except the

1       applicant, I understand, are in agreement with the  
2       conditions of certification. The applicant, my  
3       understanding, and they may -- characterize their  
4       position at all or not, themselves, but they are  
5       in disagreement about any operational limits or  
6       emission controls, constraints for unit 5, the  
7       peaker turbine.

8               They do not believe that it is under  
9       this permit action that any controls should be  
10      put, or any limitations be put on that unit. That  
11      would be AQ4, the condition AQ4A. I think they  
12      were basically suggesting that that condition be  
13      deleted entirely.

14             And I understand that CURE, probably the  
15      most significant issue in the area of air quality  
16      seems to be, based upon the amount of discussion  
17      we had, it's condition AQ3 requiring source  
18      testing. They would like to have inclusion of  
19      toxics, specific toxics, formaldehyde, acrolein,  
20      acetaldehyde and hexane, I believe were the four  
21      pollutants that they would like to see source  
22      tested for unit 5. This is not for 3 and 4.

23             The requirement under AQ3 is for source  
24      testing of unit 5. We also discussed, the  
25      applicant brought forth the position that they

1 believe that they can't source test unit 5 because  
2 of the physical constraints of the stack  
3 locations.

4 What we have asked the Air District to  
5 do is to go out to the site to get their  
6 independent evaluation as to the feasibility of  
7 actually performing a source test as it is now  
8 suggested under AQ3.

9 But, absent that, we believe to leave  
10 the condition in, as is, at this time.

11 And I think that's basically it.

12 We did discuss the District's  
13 preliminary determination of compliance. I think  
14 one of the problems we had was that the parties  
15 haven't had a lot of time to take a look at the  
16 conditions.

17 There will be a time, the public comment  
18 period, I believe, actually starts today and runs  
19 through the middle of April. So we didn't really  
20 discuss the specific District's conditions because  
21 all the parties really had not had a chance to  
22 look them through to understand the nuances of the  
23 conditions, and have any issues raised, so we  
24 really didn't get into a discussion of the  
25 District's conditions.

1                   HEARING OFFICER SHEAN: Okay. Thank  
2                   you. Yes, sure, come on up.

3                   DR. FOX: Phyllis Fox, representing  
4                   CURE. It's not true that all parties are in  
5                   agreement with the rest of the air quality  
6                   certification conditions.

7                   There was quite a bit of dissension on a  
8                   lot of the points. And I'd like to just go over  
9                   some of the issues that we brought up that were  
10                  not resolved, and that will be left to adjudicate  
11                  in the hearings.

12                 In the case of the construction  
13                  certification conditions, I believe condition AC2,  
14                  I don't have it here -- we discussed the fact that  
15                  some of the construction conditions are sort of  
16                  beside the point, because in fact, construction  
17                  has started. And many of the certification  
18                  conditions are not really effective because  
19                  construction is already underway, based on my  
20                  field inspection.

21                 And so we asked for some additional  
22                  mitigation measures to account for the fact that  
23                  we are facing a situation where construction has  
24                  already started.

25                 And the main one was in addition to

1 condition AQ2, which requires the use of 15 ppm  
2 sulfur diesel, we also suggested the use of  
3 PureNOx, which is a CARB-certified alternative  
4 diesel fuel, which is certified to reduce NOx by  
5 14 percent and PM10 by 65 percent.

6           You can lease the unit that is used to  
7 blend the fuel and install it onsite. It adds  
8 about 10 cents a gallon to the cost of the diesel.  
9 And it has substantial air quality benefits. It  
10 is being routinely required by the Sacramento  
11 Metropolitan Air Quality Management District for  
12 Caltrans construction project, and also for other  
13 large commercial development projects in the  
14 Sacramento area.

15           It is feasible and cost effective. And,  
16 I think, given the fact that here we're facing a  
17 situation where construction has already started,  
18 that it would be very beneficial to require the  
19 use of this additional fuel to get additional air  
20 quality benefits.

21           HEARING OFFICER SHEAN: Okay.

22           DR. FOX: I think I've got the --

23           HEARING OFFICER SHEAN: All right, we're  
24 trying to summarize this. We don't need to sell  
25 them at this point.

1 DR. FOX: Another issue that was in  
2 contention is the conditions having to do with  
3 determination of compliance. The existing  
4 conditions only require annual source tests.

5 And the problem that that leads to in  
6 this case is some of the emission limits for this  
7 unit, in particular the VOC and the PM10 emission  
8 limits, were based on a source test on units 1 and  
9 2, using different burners.

10 And they are extraordinarily low based  
11 on my experience. And CURE has advocated for the  
12 use of CEMs or more frequent source testing than  
13 what is currently required in the certification  
14 conditions.

15 And those were the major ones. Just let  
16 me make sure I didn't miss something here.

17 (Pause.)

18 DR. FOX: The other major issue that we  
19 have is the air quality workshop which was billed  
20 as air quality and public health only dealt with  
21 air quality.

22 There was no discussion at all of public  
23 health, and in fact, the staff person is not even  
24 present. And many of our issues deal with public  
25 health issues.



1 HEARING OFFICER SHEAN: Okay, thank you.

2 All right. Well, we have a 6:00 meeting we're  
3 going to need to get to to address the citizenry  
4 of Huntington Beach. It will be over in the City  
5 Council Chambers.

6 Let me just outline for tomorrow what my  
7 expectations are. And the Commissioners will be  
8 present.

9 We will begin at 10:00. We will go  
10 through the uncontested aspects of the record.  
11 Then we will begin going through the subject  
12 matters, probably in an ascending order of  
13 complexity and degree of difference on the issues,  
14 so that probably air quality will be last, and  
15 we'll do the water and biology type stuff probably  
16 just after lunch. And other than that, we'll take  
17 some of this other stuff prior to that.

18 Again, as I indicated, given the nature  
19 of the proceedings before us, and the amount of  
20 material we have to cover, my expectation is that  
21 each of the current parties will be allotted 90  
22 minutes for their total presentation through all  
23 subject matters for the day.

24 We will not be using standard  
25 traditional cross-examination of witnesses, but

1       there will be a presentation by, and I think we're  
2       going to do it in this order pretty consistently,  
3       the Commission Staff, then any other party who's  
4       in support of the staff's conditions of  
5       certification or proposed conditions of  
6       certification, ultimately then.

7               So, for most purposes, and I'm not  
8       trying to make a judgment on this, but for most  
9       purposes then it will be the staff, the City of  
10      Huntington Beach, CURE, and possibly the other  
11      union party, and then the applicant would have an  
12      opportunity to rebut. Then we'll go back to those  
13      parties to rebut anything they heard the applicant  
14      say. And then because the applicant has the final  
15      burden of proof, they'll have the last word.

16             So that will be the rotation in terms of  
17      the order of presentation. But to keep it crisp,  
18      clean and concise, the clock will be running so  
19      that we're not spending any more time on this than  
20      we need to.

21             And I think you need to understand that  
22      the evidentiary aspect of this is to ascertain  
23      facts, not necessarily argue policy or things like  
24      that. Because we will have an opportunity, after  
25      the conclusion of -- the parties will have the

1 opportunity after the conclusion of the  
2 evidentiary hearing, to submit any written  
3 argument that they choose to on any matter that  
4 was heard at the hearing tomorrow.

5 So, that's just a caveat. You might do  
6 well to save your time for the facts and not for  
7 argument.

8 With that, then, we have our 6:00  
9 meeting to go to tonight. What I expect we will  
10 do is sort of recap what we've recapped today, to  
11 the public, so that they understand what it is  
12 that we've done.

13 We want to then take some comments and  
14 questions from the audience tonight. And that  
15 will be about that.

16 Yes?

17 SPEAKER: Mr. Shean, could you clarify  
18 for the Air District their role in presenting  
19 testimony -- or put into the record their  
20 determination of compliance?

21 HEARING OFFICER SHEAN: Sure, and I  
22 think what would occur would be the staff, the  
23 District, and then any other party thereafter.  
24 Okay.

25 Any other --

1                   SPEAKER:  -- written testimony --

2                   HEARING OFFICER SHEAN:  Yes, we'll take  
3                   testimony that's submitted in writing in lieu of  
4                   oral testimonies.

5                   SPEAKER:  Will that count against my  
6                   minutes?

7                   HEARING OFFICER SHEAN:  No, doesn't  
8                   count against your minutes.

9                   (Laughter.)

10                  HEARING OFFICER SHEAN:  So there's a  
11                  certain, I guess you might feel a certain  
12                  advantage to that, but yes.

13                  SPEAKER:  Are there other parties  
14                  speaking tonight, as well, or is it mainly just  
15                  the staff --

16                  HEARING OFFICER SHEAN:  There may be  
17                  some questions that would come from the audience,  
18                  so I want to urge the applicant and the City and  
19                  CURE and any other party that wishes to be there,  
20                  so if you want to respond to the public you have  
21                  an opportunity to do so.

22                  All right, I don't know how we're all  
23                  going to get sustenance between now and then, but  
24                  we'll do our best.

25                  And thank you again, very much, because

1 I know this was an unusual event today. I think,  
2 on the whole, it went well. We got a lot covered  
3 and we got the issues narrowed.

4 So, thank you, we'll see you later.

5 (Whereupon, at 5:30 p.m., the afternoon  
6 workshop summary was concluded, with the  
7 public meeting to resume at 6:00 p.m.,  
8 this same evening.)

9 --o0o--

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

## 1 EVENING SESSION

2 6:16 p.m.

3 HEARING OFFICER SHEAN: Good evening, my  
4 name is Garret Shean, I'm the Hearing Officer for  
5 the California Energy Commission that is here in  
6 Huntington Beach to review the AES proposal to  
7 retool units 3 and 4.

8 Prior to our meeting this evening we  
9 were over at the library conducting a series of  
10 working groups that were dealing with all of the  
11 substantive matters that the Energy Commission  
12 must consider under the California Environmental  
13 Quality Act in order to determine whether or not  
14 there are any significant potential impacts from  
15 the project. And if there are, whether there is  
16 mitigation that is feasible to either eliminate or  
17 reduce that impact to a level of insignificance.

18 In addition, we looked at engineering,  
19 public health and safety matters. And the format  
20 generally was that the working groups were divided  
21 into six broad categories.

22 The first one dealt with general orders  
23 and conditions, as well as land use.

24 Then we had one dealing with air  
25 quality, public health and hazardous materials.

1 Most of that hazardous materials relating to the  
2 urea used ultimately for NOx air pollution  
3 control.

4 Group three dealt with water quality,  
5 water resources and biology matters, most  
6 particularly the issue of beach closures as a  
7 result of bacterial pollution.

8 Group four dealt with visual resources  
9 and noise.

10 Group five was socioeconomic matters,  
11 including the use of local labor.

12 Group six dealt with a host of topics  
13 that generally were regarded as noncontroversial.  
14 Those were geology, traffic and transportation,  
15 waste management, soils, cultural resources,  
16 project alternatives, efficiency, reliability,  
17 facility design, transmission system engineering,  
18 transmission safety, and worker safety.

19 The focus initially of the discussions  
20 this morning was the staff's assessment, which is  
21 a document produced by the California Energy  
22 Commission Staff, which is composed of men and  
23 women who are technical experts in the fields I  
24 just mentioned.

25 They produced an independent assessment,

1 meaning that it was the result of their best  
2 professional judgment independent from the  
3 decision-makers at the Commission.

4 In that staff assessment the staff  
5 proposed a series of conditions of certification  
6 which would be conditions placed upon the  
7 operation or construction of the project which  
8 were intended to either protect the environment or  
9 some aspect of public health and safety, or to  
10 comply with engineering requirements, such as the  
11 California Building Code or the Uniform Building  
12 Code for seismic safety.

13 The working groups then looked at each  
14 of the conditions that were proposed, and whether  
15 it was from AES, the applicant, from the City of  
16 Huntington Beach, which was there and well  
17 represented, from CURE, which is an intervenor in  
18 our proceedings, or from the Utility Workers  
19 Union, which is also a participant in our  
20 proceeding.

21 There were various opinions given as to  
22 both the need for the conditions on the one hand,  
23 as well as thoughts that more stringent conditions  
24 should be added.

25 On the whole we were able to reach



1 consensus on many matters, but a few remain  
2 outstanding. And just briefly, they do relate to  
3 general orders having to do with the duration of  
4 the Commission's license for this particular  
5 facility. The staff had recommended that this  
6 license last through the summer of 2006, basically  
7 a five-year license.

8 There were also issues related to air  
9 quality, most particularly they relate to unit 5,  
10 which is not part of the project proposal, but is  
11 on site with units 1 and 2, and with the unit 3  
12 and 4 that the AES project focuses on retooling.

13 The staff had recommended conditions  
14 that would limit the operation of unit 5, which is  
15 a peaking facility composed of eight combustion  
16 turbines of a 1960s vintage, which is only or  
17 generally is used for providing peaking power.

18 The applicant, AES, is of the position  
19 that the peaker unit is not part of this project  
20 and should not have any restrictions place on its  
21 operation.

22 The water quality and biology and water  
23 resources dealt with several issues. Two that  
24 principally are the matter of the impingement of  
25 biological resources on the intake structure for

1 the incoming water into the power plant. This, of  
2 course, is an existing structure. It's been in  
3 place for a long time. It is currently authorized  
4 for use under NPDES permit that extends to 2006.

5 The position generally of the Commission  
6 Staff and the proposed condition was that there be  
7 a study of the impingement effects of the current  
8 equipment in place, and that there be a further  
9 examination of whether or not new equipment can be  
10 retrofitted on that intake structure which will  
11 reduce the impact to fish and other biological  
12 resources.

13 The applicant's position generally is  
14 that the fact that they are operating under a  
15 current permit does not suggest that additional  
16 studies should be undertaken at this time.

17 The other issue related to beach  
18 closures at Huntington Beach, both the state park  
19 beach and the City beaches, that arise during  
20 certain conditions where there is a bacteria found  
21 in the beach zone, the issue here relates to the  
22 conduct of a study in order to determine what  
23 contribution, if any, the Huntington Beach  
24 Generating Station makes to these bacteria event  
25 and beach closure events.

1           The staff is recommending that a study  
2       be done in conjunction with other known and  
3       coordinated with other known studies on this topic  
4       that include not only the City of Huntington  
5       Beach, but the Sanitation District, the Coastal  
6       Commission, and the Regional Water Quality Control  
7       Board and a few others.

8           The question really arising with this  
9       issue is to how the matter is to be funded,  
10      whether the study would be funded up front or will  
11      be funded essentially as we go along. And then if  
12      some mitigation measures are developed as a result  
13      of the study, how there will be an enforceable  
14      obligation upon AES to implement those mitigation  
15      measures.

16          As far as visual resources go there's a  
17      question as to what is the best way to address the  
18      visual impact of the facility that's there. All  
19      except the most devout engineers believe that the  
20      facility is not particularly aesthetically  
21      pleasing, and that something should be done to  
22      reduce the impacts of the unit, both from the  
23      Pacific Coast Highway and other vantage points on  
24      the beach and in the community.

25          The question that arises is whether or

1 not most of this effort should be through the  
2 planting of visual or vegetative screening, or  
3 whether or not some architectural elements would  
4 be added to the structure, itself, and painted, so  
5 that some of the -- and I don't mean this as  
6 derogatorily as it sounds if you're an erector set  
7 owner, so that the erector-set look of this  
8 particular facility can be reduced.

9 In addition, there were issues related  
10 to noise. If this project is permitted, and if it  
11 is to meet the Governor's goal of being on line to  
12 produce power in the summer of 2001, the applicant  
13 believes it will require a construction schedule  
14 that will have construction ongoing approximately  
15 20 hours per day.

16 And this will mean that all seven days  
17 of the week for approximately 90 days. The  
18 question then arises what conditions, with regard  
19 to noise, should be put in place so that noisy  
20 construction will occur during those hours of the  
21 day when most people are going about their usual  
22 business and not during the nighttime hours when  
23 it would disturb the local community.

24 Those are the most substantial issues  
25 that have been raised before us. And we are going

1 to be dealing with them tomorrow in an evidentiary  
2 hearing here in the City Council Chambers.

3 At that hearing, which begins at 10:00  
4 in the morning, each of the parties, that would be  
5 the applicant, the Commission Staff, the City of  
6 Huntington Beach, the CURE union representative,  
7 and the representatives of the Utility Workers,  
8 will be here and have an opportunity to put on  
9 their respective cases in support of their  
10 positions on each of these issues.

11 After the conclusion of that hearing,  
12 which will be before two Commissioners of the  
13 Energy Commission and myself, we will return to  
14 Sacramento and deliberate the matter, and come up  
15 with our best decision with respect to how this  
16 facility can be made to comply with all the  
17 applicable laws, ordinances and regulations; how  
18 it can be sited, and if it can be sited, in  
19 compliance with all the environmental laws. And  
20 how it will best protect the public health and  
21 safety.

22 We will reduce that deliberation to a  
23 document which will be available both in hard  
24 print as well as on the Commission's website  
25 sometime before the end of March. We don't know

1 exactly when this will be, but it's largely  
2 dependent upon the complexity of the matters that  
3 come before us.

4 Now, for purposes of this evening's  
5 meeting we had our main document was the staff's  
6 assessment, which is a 300-and-approximately-50-  
7 page document. It's available either in print or  
8 by CD, if you want it. Or it's also available on  
9 the Commission's website, which for those of you  
10 who are in our viewing audience, is  
11 [www.energy.ca.gov](http://www.energy.ca.gov), and if you will scroll through  
12 the home page to find the siting cases, and then  
13 through the siting cases to the current siting  
14 case here in Huntington Beach, you will be able to  
15 find the full text of not only the staff  
16 assessment, but all the documents that have been  
17 filed in this particular case.

18 Our purpose here tonight is to hear from  
19 you members of the public who either have comments  
20 with regard to the project, or would like to ask  
21 us some questions.

22 We also have here this evening two of  
23 your Council Members. And we want to afford them  
24 an opportunity to speak to you, and to speak to  
25 us. And so I think without further ado we have

1 Council Member Boardman, if you'd like to come up.

2 And then we'll go to you, the audience.

3 COUNCIL MEMBER BOARDMAN: Good evening,  
4 my name is Connie Boardman, and I'm a member of  
5 the Huntington Beach City Council.

6 I wanted to make sure that the  
7 Commission knew that our Council has voted seven-  
8 zero to direct our staff to aggressively pursue  
9 protection of our community through this planning  
10 process.

11 It's apparent to me that because of our  
12 current energy problems AES will get approval to  
13 retool and power up Units 3 and 4 of their 43-  
14 year-old plant here in Huntington Beach. A plant  
15 that was constructed in 1958. A plant that when  
16 all four units are producing power will emit over  
17 one half a billion gallons of hot water a day into  
18 the ocean. A plant that will generate about 45  
19 tons of NOx a year even with scrubbers installed.

20 In short, it's a plant that needs to be  
21 replaced with modern technology.

22 I was glad to see that your staff has  
23 addressed the problems with the peaker units which  
24 currently have no pollution controls on them. And  
25 I'm glad to see that staff is recommending that

1 the best available control technology be used.

2 I would go further to recommend that  
3 these units only be used in times of rolling  
4 blackouts here in the state, or only during times  
5 of severe energy emergencies.

6 I also understand that staff is  
7 recommending a five-year permit be issued for the  
8 plant, and I agree the permit should only be for  
9 the short term. Duke Energy has committed to the  
10 City of Morro Bay to replace their antiquated  
11 power plant with a low profile plant using state  
12 of the art technology. And the community of  
13 Huntington Beach deserves no less.

14 I would like the Commission to seriously  
15 consider making this a condition of approval for  
16 the permit to retool units 3 and 4.

17 I'd like the Commission to do what it  
18 can to get a commitment from AES to replace this  
19 dinosaur of a plant with modern technology over a  
20 reasonable amount of time.

21 I was also glad to hear that the staff  
22 is recommending that AES put \$1 million into an  
23 escrow account to help pay for the studies to  
24 determine if and how the hot water effluent from  
25 the plant could be tied to the bacterial plume



1       that reaches the shores.

2               The AES plant may be tied to the high  
3       levels of bacteria reaching our beaches resulting  
4       in beach closures. It appears that it may  
5       actually provide a pathway for bacteria in the  
6       sewage dump four miles off our coast to travel  
7       back to the beach.

8               Our local economy in the summer is very  
9       dependent on beach-goers. The businesses in the  
10      downtown area conduct a majority of their sales  
11      during the summer months when tourists visit our  
12      beaches. If people cannot go into the water  
13      because of bacterial contamination they don't come  
14      to Huntington Beach at all. They don't visit our  
15      beaches. It's that simple. With beach closures  
16      like we had in the summer of 1999 our local  
17      economy will suffer a great deal.

18              I also believe that the Commission  
19      should require that AES reexamine their intake  
20      pipes and take steps to reduce the impacts to fish  
21      and marine mammals that get caught in the intake.  
22      After all, the plant is going to be pulling in  
23      twice the volume of water. And I think that's a  
24      good enough reason to make them reexamine the  
25      intake system.

1 Duke Energy has also agreed to pay  
2 mitigation funds to the City of Morro Bay to  
3 offset the impacts the plant has on that  
4 community. I would also request from the  
5 Commission that a mitigation account be  
6 established that the AES Company would pay into to  
7 help the City deal with the problems its presence  
8 causes our economy and the people of our City.

9 Thank you.

10 HEARING OFFICER SHEAN: Thank you,  
11 Council Member Boardman.

12 (Applause.)

13 HEARING OFFICER SHEAN: We have another  
14 City Council Member, Mr. Bauer. Sir.

15 COUNCIL MEMBER BAUER: I'm Ralph Bauer,  
16 resident of Huntington Beach, City Council Member  
17 for the last eight years.

18 I will strongly support what Council  
19 Member Connie Boardman has just said, and kind of  
20 recount kind of an interesting little sidelight,  
21 which might give you a couple laughs.

22 This first came up right around  
23 Christmastime, and we were all very concerned.  
24 And somebody said, well, gee, Huntington Beach  
25 sounds like sort of a grinch. And I said, well,

1       gee whiz, the current owner and the prior owner,  
2       they've been grinchs for 40 years, and we're  
3       being a grinch for one year. Cut us some slack  
4       and take care of our problems.

5               And I think Ms. Boardman, who does have  
6       an advanced degree in biology and is a biology  
7       teacher, understands these in some detail. And I  
8       would be very supportive of her comments, as well  
9       as the comments that our staff, in general, has  
10      made. And I think that we made them very clear.  
11      We'll continue to make them clear. And we're here  
12      for the long pull and we ain't going away.

13             Thank you, Mr. Chairman.

14             (Applause.)

15             HEARING OFFICER SHEAN: All right, why  
16      don't we go now to the citizen members of the  
17      audience who would like to come down and give us  
18      any of your comments or questions, and we'll just  
19      take you in the order that you appear.

20             MR. KNAPP: Thank you for the  
21      opportunity to address the Commission. I am not  
22      from Huntington Beach, I am from San Clemente. My  
23      name is Gary Knapp. I'm an environmental  
24      engineer.

25             And I would like to see this plant up as

1       soon as possible, running and producing its energy  
2       within reasonable rules.

3               The reason for that is for every minute  
4       that this plant doesn't run, our nuclear power  
5       plant down there has to run that much harder and  
6       produce the kilowatts that aren't being produced  
7       right here.

8               And with the objections that you have, I  
9       think we're learning something in San Clemente,  
10      and I think maybe the Commission can help us out  
11      with that, I think we in San Clemente, for these  
12      extra kilowatts that we have to produce, we should  
13      get some extra money, some extra benefits for our  
14      city. And I think the state, as a whole, and  
15      probably specifically the people of Huntington  
16      Beach, ought to kick in on that so we get some  
17      benefit for having to run a nuclear power plant  
18      that has probably five times the thermal plume  
19      that this plant will ever have at full rate.

20              So, we need the energy. We're caught in  
21      the squeeze, all of us, as citizens. But I think  
22      we're also the problem sometimes. Nothing can be  
23      done without pollution. Well, try to do as good a  
24      job as you can, but you can't do it for nothing.

25              So thank you, that's all I have to say.

1 HEARING OFFICER SHEAN: Thank you, Mr.  
2 Knapp.

3 MR. KNAPP: At least at the mike.

4 (Laughter.)

5 HEARING OFFICER SHEAN: Mr. Racano.

6 MR. RACANO: Thank you for coming down  
7 to see what we have to say about this. You know,  
8 we are surf city, and we do depend on our ocean  
9 for our economy here. It's very important we have  
10 a clean ocean.

11 Good old Pete Wilson. He left us with a  
12 baby we call deregulation. This deregulation is a  
13 perfect example of how, if we let industry  
14 regulate itself, it just won't do it. It will  
15 only work to maximize profit while minimizing  
16 accountability and responsibility.

17 Through deregulation the power industry  
18 has decreased supply, while demand has remained  
19 steady. This has raised prices.

20 What electricity shortage could exist  
21 when I see electric power generating plants  
22 sitting idle. There is no energy crisis. We need  
23 not increase production. We need only stop the  
24 waste.

25 Therefore, we need not be bullied or

1       frightened by companies such as AES. AES is a  
2       convicted polluter who stands before us this night  
3       in the form of the California Energy Commission,  
4       telling us through one side of their mouth to  
5       beware of water pollution, to beware of air  
6       pollution, to beware of a serious impact on  
7       wildlife, but in the same breath tells us it  
8       recommends retooling of the 3 and 4 units in all  
9       their primordial glory, and to do it at a fast  
10      track pace.

11               Stanley Grant's UCI study was not the  
12      only theory that suggested that hot water from the  
13      AES outfall drew disease-causing pathogens back to  
14      the Huntington Beach shore.

15               In 1985 when Orange County Sanitation  
16      District first received its dreaded 301H waiver an  
17      OC Register article quoted a Dr. John Skinner of  
18      Newport Beach who called this shot 16 years ago.

19               Surf City's air, water, worldwide  
20      reputation and wildlife are not to be compromised  
21      to facilitate corporate profits through scare  
22      tactics of shortages and crises that do not exist.

23               Thank you.

24               HEARING OFFICER SHEAN: Thank you.

25               MR. MCGEE: Hello, there. My name is

1 Don McGee, and I live in the shadow of the  
2 dinosaur being fast-tracked by the powers that be.  
3 I did not hear the whistle blowing, but I know the  
4 railroad has come thundering through.

5 First, I want to thank you for coming  
6 and listening to our many concerns and extremely  
7 well founded fears in regards to this matter.

8 Even though it's been obvious from the  
9 get-go that this was a done deal well before you  
10 embarked on this ill fated sojourn, what I am  
11 about to say is in no way directed at you or your  
12 efforts, but is directed at those that  
13 orchestrated this feeble attempt at cajoling this  
14 community into thinking that our future could  
15 possibly have any weight in the decision-making  
16 process regarding this rush to mis-judgment.

17 I realize that these hearings have been  
18 called only to provide cover for some in  
19 Sacramento desperately seeking to save face and/or  
20 butt. And under the guise of a pretense of  
21 caring.

22 I also realize there is a monumental  
23 difference between substance and pretense, and for  
24 these face/butt savers to ignore the preponderance  
25 of evidence and go blindly forward all the while

1       doing a little dance of diversion and solicitation  
2       to placate the public, is not only a tremendous  
3       affront to our sensibilities, but a gruesome  
4       travesty for all involved.

5               There has been a seamy/unseemly sort of  
6       incestuous relationship between government and  
7       utilities for as long as I can recall, which is  
8       made more abhorrent as they mutate into  
9       multinational, answer-to-no-one viruses that have  
10      proven to have only one agenda: Pure  
11      unadulterated greed and avarice. But what the  
12      hey, as long as the campaign contributions flow,  
13      who knows, who cares.

14             Now a word to those who kicked off this  
15      insanity called, duh-regulation. I would like to  
16      ask where they were when a bit of not so ancient  
17      history, namely the \$1 trillion or is it \$2  
18      trillion dollar misstep, formerly known as the  
19      late, not so great, duh-regulated S&L debacle was  
20      destroying so many lives. That bit of Americana  
21      has obviously been forgotten, denied, buried,  
22      dismissed, et cetera, by most, excepting, I hope,  
23      Neil Bush of Silverado Savings and Loan infamy.  
24      Nice escape, number two son.

25             Seems to be a great benefit in having an



1 influential father and brother. It is also  
2 crystal clear that the only things some learn from  
3 their experience is they do not learn from their  
4 experience.

5 I also realize that it took more than  
6 those who served up this half-baked idiocy beneath  
7 the shroud of saving people money, a multitude of  
8 others had to ward off the worrisome tug toward  
9 ethics and morality to ignore the danger signs  
10 that screamed for someone to cut the ties that  
11 bind and remedy the situation before it became a  
12 full blown nightmare of epic proportions.

13 As noted by Phillip Howard in his book  
14 The Death of Common Sense, quote, "Government acts  
15 like some extraterrestrial power, not an  
16 institution that exists to serve us. It's actions  
17 have an arbitrary quality. It almost never deals  
18 with real life problems in a way that reflects an  
19 understanding of the situation." End quote.

20 Case in point: Shrub breaking the first  
21 of what I am sure will be many campaign promises,  
22 i.e., regarding energy producers and global  
23 warming causing carbon dioxide emissions.

24 I can hear the rationalization now:  
25 Global warming, good; too cold in Texas, D.C. and

1       Kennebunkport, anyhoo. And that's what we have  
2       trees for. Oops, had trees for. Like his daddy's  
3       benefactor before him, the only good redwood is  
4       one that is used for picnics, fencing and lawn  
5       furniture.

6               This is critically worrisome. It should  
7       sound the loudest alarm. Any lame-brained excuse  
8       to undermine any and all laws that portend (sic)  
9       to protect the public from environmental  
10      degradation will be immediately seized upon and  
11      exploited for the good of the few that are the  
12      true king-makers in that tragicomedy commonly  
13      referred to as politics.

14             It's not where the buck stops that  
15      counts. It's where all those bucks coagulate,  
16      perpetuating the madness of King George and his  
17      merrymakers, or is it widow-makers.

18             Highly ironic that the overwhelming  
19      majority of conservatives are rich white guys  
20      whose rabid appetite for conspicuous consumption  
21      makes them bone-chillingly ignorant of the root of  
22      their label, conserve.

23             And I take no solace in the fact that as  
24      the nominee of my party has repeatedly decried,  
25      the only difference between Republicans and

1 Democrats is the velocity that their knees hit the  
2 floor when the corporations drop trow.

3 I hope that the Commission enjoyed your  
4 visit here.

5 Huntington Beach is a nice place to live  
6 and I surely would like to believe that it will  
7 remain that way. But the actions of some of our  
8 elected public servants, that's a chuckle, have me  
9 harboring serious doubts that this will indeed be  
10 the case.

11 There is one point in fact that you  
12 could take back to Sacramento and that is, in  
13 spite of what the string-pulling corporations tell  
14 them, they are, at least theoretically, public  
15 servants, and are there to serve us, not, I  
16 repeat, not there to service us, breaking it off  
17 in the process, so to speak.

18 Thank you, I think, I trust, I hope.

19 (Applause.)

20 HEARING OFFICER SHEAN: Thank you, Mr.  
21 McGee.

22 Do we have any other member of the  
23 citizenry who would like to address us?

24 All right, well, good, try to see  
25 through the lights here. Since I don't see any

1 hand up, I think we're getting to the point where  
2 we're prepared to adjourn our meeting here.

3 Let me indicate again our thanks to the  
4 City of Huntington Beach for the accommodations  
5 you got for us today at the library. They were  
6 very helpful in terms of being able to break our  
7 larger meeting up into the working groups.

8 We appreciate also being here in your  
9 City Council Chambers, which is full of more  
10 doodads and whiz-type toys than we have in  
11 Sacramento, and I enjoy coming here all the time.

12 Let me also indicate to you that we  
13 have, at your request, housed about two dozen of  
14 the Commission employees, as well as our  
15 consultants and others, here in town. And we're  
16 enjoying your hospitality of your restaurants, and  
17 we enjoy coming here, and intend to return, and  
18 intend that it be a nice place when we do return  
19 later.

20 So, with that, let me indicate we will  
21 be back here at the City Council Chambers at 10:00  
22 tomorrow morning for the commencement of our  
23 evidentiary hearing.

24 And we look forward to seeing or hearing  
25 from all of you.

1 Thank you.

2 (Whereupon, at 6:45 p.m., the  
3 proceedings were adjourned, to reconvene  
4 at 10:00 a.m., Friday, March 16, 2001,  
5 at this same location.)

6 --o0o--

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

## CERTIFICATE OF REPORTER

I, VALORIE PHILLIPS, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Committee Workshop; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said workshop, nor in any way interested in outcome of said workshop.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of March, 2001.

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345